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Security Council

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Austria, Bosnia and Herzegovina, China, Gabon, Japan, Lebanon, Nigeria, Russian Federation, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

The Security Council,

Recalling its previous resolutions on the situation in Iraq, in particular resolutions 986, 1472, 1476, 1483, and 1546, and the Report of the Secretary-General pursuant to paragraph 5 of resolution 1859 (2008),

Recalling the need for the "Oil-for-food" Program (hereinafter "the Program") established under resolution 986 (1995) as a temporary measure to provide for the humanitarian needs of the Iraqi people,

Recognizing the importance of Iraq achieving international standing equal to that which it held prior to the adoption of resolution 661,

Recognizing the importance of the activities of the Secretary-General's High-Level Coordinator's office established pursuant to resolution 1284 (1999),

Recalling the Secretary-General's letter, dated 8 December 2010 and the Note attached thereto, S/2010/619, the third report of the Secretary-General pursuant to paragraph 3 of resolution 1905 (2009), S/2010/563, and the third quarterly report of the Government of Iraq pursuant to paragraph 5 of resolution 1905 (2009), S/2010/567,

Noting the letter from the Government of Iraq to the President of the Security Council, dated 6 December 2010,

Acting under Chapter VII of the Charter of the United Nations,

1. *Requests* the Secretary-General to take all actions necessary to terminate all residual activities under the Program, noting that all letters of credit with outstanding claims of delivery, listed in Annex 1 to the Secretary-General's Note, dated 8 December 2010, S/2010/619, have expired according to their terms and that no confirmation of arrival will be provided by the Government of Iraq and are closed for all purposes under the Program, including for purposes of transferring the funds associated with such letters of credit from the collateral portion of the Iraq Account to the non-collateral portion of the Iraq Account, without prejudice to any rights or claims that the suppliers with claims of delivery may have for payment, or otherwise, against the Government of Iraq under their respective commercial contracts with the Government of Iraq;

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2. *Notes* the Government of Iraq's provision of certificates of arrival on file with the United Nations as of 15 December 2010, for which payment has not been effected either as a result of the advising bank not being able to locate the relevant beneficiaries or as a result of the beneficiary not providing requisite documentation, as referenced in the Secretary-General's Note, dated 8 December 2010, paragraphs 11 and 12 and Annexes II and III, and calls upon the Government of Iraq to provide without delay direct payment if contacted by the beneficiaries or its representatives;

3. *Authorizes* the Secretary-General to establish an escrow account for the purposes of paragraphs 4 and 5 of this resolution, to appoint independent and certified public accountants to audit it, and to keep the Government of Iraq fully informed;

4. *Authorizes* the Secretary-General to ensure that 20 million United States dollars of the Iraq Account are retained in the escrow account until 31 December 2016, exclusively for the expenses of the United Nations related to the orderly termination of the residual activities of the Program, including the Organization's support to member State investigations and member State proceedings related to the Program, and the expenses of the high-level coordinator's office created pursuant to resolution 1284 and further requests that all remaining funds are to be transferred to the Government of Iraq by 31 December 2016;

5. *Authorizes* the Secretary-General to ensure that up to 131 million United States dollars of the Iraq Account are retained in the escrow account for the purpose of providing indemnification to the United Nations, its representatives, agents, and independent contractors for a period of six years with regard to all activities in connection with the Program since its inception, and further requests that all remaining funds are to be transferred to the Government of Iraq by 31 December 2016;

6. *Authorizes* the Secretary-General to facilitate the transfer as soon as possible of all funds remaining, beyond those retained for the purposes of paragraphs 4 and 5, from the Iraq Account created pursuant to paragraph 16 (d) of resolution 1483 (2003) to the Development Fund of Iraq;

7. *Requests* the Secretary-General to take all necessary actions to ensure the effective implementation of this resolution and to enter into all necessary implementing arrangements or agreements as soon as possible with the Government of Iraq

(a) to provide appropriate indemnification, as referenced in paragraph 5, to the United Nations, its representatives, agents, and independent contractors, with regard to all activities in connection with the Program since its inception and

(b) to provide for a waiver of any future claims the Government of Iraq may have against the United Nations, its representatives, agents, and independent contractors with regard to all activities in connection with the Program since its inception, as referenced in paragraphs 19, 20, and 21 in S/2008/492, and requests him to report to the Council when he has done so;

8. *Requests* the Secretary-General to report and provide analyses to the Council on the usage and expenditure of the escrow account referenced in paragraphs 4 and 5 on an annual basis, the first no later than 31 March 2012, with the final report occurring three months after the transfer of any remaining funds retained for the purposes of paragraphs 4 and 5 to the Government of Iraq by 31 December 2016, unless otherwise authorized by the Security Council;

9. *Decides* to remain actively seized of the matter.